

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7799

Petition of Comcast Phone of Vermont, LLC,)
for Arbitration of an Interconnection Agreement)
with Waitsfield-Fayston Telephone Company,)
Inc., d/b/a Waitsfield Telecom, d/b/a Champlain)
Valley Telecom, pursuant to Section 252 of the)
Federal Communications Act of 1934, as)
amended, and Applicable State Law)

Order entered: 11/15/2011

PREHEARING CONFERENCE MEMORANDUM

BACKGROUND

On October 7, 2011, Comcast Phone of Vermont LLC ("Comcast") filed a petition with the Vermont Public Service Board ("Board") for arbitration of an Interconnection Agreement with Waitsfield-Fayston Telephone Company, Inc., d/b/a Waitsfield Telecom, d/b/a Champlain Valley Telecom ("Waitsfield"), pursuant to Section 252 of the Federal Communications Act of 1934 (the "Act"), as amended, applicable state law, and the rules and orders of the Federal Communications Commission ("FCC") implementing the Act.

A prehearing conference was convened in this docket on November 3, 2011. The following parties entered appearances: Andrew Raubvogel, Esq., Dunkiel Saunders Elliott Raubvogel & Hand PLLC, and Michael C. Sloan, Esq., *pro hac vice*, Davis Wright Tremaine LLP, for Comcast; Paul J. Phillips, Esq., Primmer Piper Eggleston & Cramer PC, for Waitsfield; and Megan Ludwig, Esq., and James Porter, Esq., for the Vermont Department of Public Service ("Department").

**SCHEDULE, MOTION FOR ADMISSION, MOTION TO DISMISS, MOTION FOR ORAL ARGUMENT
& MOTION FOR SUMMARY DISPOSITION**

At the prehearing conference one of the main topics of discussion concerned Waitsfield's Motion to Dismiss filed with the Board on November 2, 2011. In its motion, Waitsfield argues that Comcast's petition should be dismissed because it was not filed within the statutory window specified under the Act.¹ At issue is a disagreement between Waitsfield and Comcast as to the actual start date of negotiations on the interconnection agreement for purposes of Section 252(b). In response to Waitsfield's motion, Comcast moved for the opportunity to present oral argument on the issues raised in Waitsfield's filing. Hearing no objections I granted Comcast's motion.

During the course of oral argument, Comcast moved for summary disposition from the bench denying Waitsfield's motion to dismiss. I denied Comcast's motion and informed the parties that I would issue a ruling on the motion to dismiss after review of the pleadings and supplemental information to be filed in this proceeding. I also advised Comcast that it could file a formal motion for summary disposition, and afforded Waitsfield the opportunity to respond to the comments on the motion. Comcast also requested permission to cross-examine counsel for Waitsfield. Waitsfield objected and I sustained the objection, but allowed Comcast the option to file a formal motion, also allowing Waitsfield the opportunity to respond.

The parties briefly discussed Comcast's Motion for Admission of Michael C. Sloan, Esq., *pro hac vice*, for the purposes of representing Comcast in this proceeding. Hearing no objections from the parties I granted the motion.

The parties also discussed the schedule for this proceeding, including an extensive discussion of the scheduling implications posed by the federally-mandated time limit established by the Act regarding arbitration. Comcast distributed a proposed schedule to the parties. After discussing the proposed schedule in light of statutory time constraints, the parties agreed to a modified interim schedule that would be largely dependent on my rulings concerning the issues discussed during oral argument. In the event that I dismiss Waitsfield's motion and proceed with

1. Under Section 252(b)(1) of the Act, parties negotiating an interconnection agreement may petition the appropriate state commission for arbitration of any unresolved issues from the 135th day to the 160th day (inclusive) of a request for such negotiations. 47 U.S.C. § 251(b)(1).

arbitration, the parties agreed that the remainder of the schedule would run parallel to the schedule established in a related docket, Docket No. 7798. The parties also agreed to schedule a status conference by telephone in order to finalize the specific dates of the schedule for this docket. After discussion with the parties, I have adopted the interim schedule, with modifications, as set forth below:

November 3, 2011	Prehearing Conference
November 21, 2011	Comcast files: Reply to Motion to Dismiss, Motion for Summary Determination, and Motion to Compel.
December 2, 2011	Responses to Motions - Waitsfield, Department
December 9, 2011	Target date for ruling on Motions/Proposal for Decision
December 19, 2011	Status Conference (by telephone - if needed)

So ORDERED.

Dated at Montpelier, Vermont, this 15th day of November, 2011.

s/ Jay E. Dudley

Jay E. Dudley
Hearing Officer

OFFICE OF THE CLERK

FILED: November 15, 2011

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)